

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERNEST LENEAU,

Plaintiff,

-against-

NOTICE OF MOTION

16-CV-776 (GHW)

NEW YORK CITY DEPARTMENT OF
CORRECTION COMMISSIONER JOSEPH PONTE,
WARDEN K. COLLINS, DEPUTY WARDEN
PROGRAMS JOHN/JANE DOE, CORRECTIONS
OFFICER DEJESUS,

Defendants.

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PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law dated August 15, 2016, and upon all the papers and proceedings had herein, Defendants Commissioner Joseph Ponte, Warden Karen Collins, and Officer DeJesus will move this Court, before the Honorable Gregory H. Woods at the United States Courthouse for the Southern District of New York located at 500 Pearl Street, New York, New York 10007-1312, on a date and time to be determined by the Court, for an order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing the Complaint on the ground that (1) Plaintiff's action is barred as he failed to exhaust his administrative remedies, and (2) Plaintiff has failed to state a claim upon which relief can be granted, and granting Defendant such other and further relief as the Court deems just and proper.

Dated: New York, New York
August 15, 2016

ZACHARY W. CARTER
Corporation Counsel of the
City of New York

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By: /s/James M. Dervin
James M. Dervin
Assistant Corporation Counsel